

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL ACTION NO. 4:15CR105
	§	
DANIEL SANCHEZ-NUNEZ (2)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 5, 2017, to determine whether Defendant violated his supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Maureen Smith.

Daniel Sanchez-Nunez was sentenced on March 7, 2016, before The Honorable Amos L. Mazzant of the Eastern District of Texas after pleading guilty to the offense of Misprision of a Felony, a Class E felony. This offense carried a statutory maximum imprisonment term of 3 years. The guideline imprisonment range, based on a total offense level of 16 and a criminal history category of I, was 21 to 27 months. The Court made a determination for variance below the guideline range and Daniel Sanchez-Nunez was subsequently sentenced to 11 months imprisonment, followed by a 1 year term of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, drug aftercare, a \$100 special assessment fee, and deportation. On April 12, 2016, Daniel Sanchez-Nunez completed his period of imprisonment and began service of the supervision term.

On January 31, 2017, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 150 Sealed]. The Petition asserted that Defendant

violated two (2) conditions of supervision, as follows: (1) Defendant shall not commit another federal, state, or local crime; and (2) As a condition of supervised release, immediately upon release from confinement, the defendant shall be surrendered to a duly authorized immigration official for deportation proceedings in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101, et seq. If ordered deported, the defendant shall remain outside of the United States. In the event the defendant is not deported, or for any reason re-enters the country after having been deported, the defendant shall comply with all conditions of supervised release, to include reporting to the nearest United States Probation Office within 72 hours of release by immigration officials or re-entry into the country.

The Petition alleges that Defendant committed the following acts (1) and (2) On or about December 27, 2016, Mr. Sanchez-Nunez committed the federal offense of Reentry of Removed Alien, in violation of Title 8 U.S.C. §1326. Defendant was apprehended by U.S. Border Patrol Agents on December 27, 2016, near Calexico, California, after having been previously deported from the United States on May 24, 2016. U.S. Immigrations and Customs Enforcement (ICE) officials stated there were no formal charges filed and the defendant was deported to Mexico again on December 28, 2016.

Prior to the Government putting on its case, Defendant entered a plea of true to allegations one (1) and two (2) of the Petition. Having considered the Petition and the plea of true to allegations one (1) and two (2), the Court finds that Defendant did violate his conditions of supervised release by committing another federal, state or local crime by re-entering the United States. Defendant waived his right to allocate before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of seven (7) months, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in the Bureau of Prisons in Dublin, California, if appropriate.

SIGNED this 8th day of May, 2017.

A handwritten signature in black ink, appearing to read 'C.A. Nowak', written over a horizontal line.

Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE